

APPLICANTS:
Scott & Maria Crouse

REQUEST: A variance pursuant to
Section 267-36B, Table VI, to allow an attached
garage within the required side yard setback

HEARING DATE: November 3, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5449

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Scott & Maria Crouse

LOCATION: 3704 Denton Court, Oaks of Harford, Abingdon
Tax Map: 61 / Grid: 2D / Parcel: 299 / Lot: 171
First Election District

ZONING: R3/ Urban Residential District

REQUEST: A variance pursuant to Section 267-36 B, Table VI of the Harford County Code, to allow an attached garage within the required 10 foot side yard setback (6 foot setback proposed), in an R3 District.

TESTIMONY AND EVIDENCE OF RECORD:

Marie Crouse, Co-Applicant, testified that she and her husband desire to build a garage on the side of their home, similar to other attached garages in their neighborhood.

The subject property is a two-level colonial with a one-story side addition. The proposed garage would be built onto the one story side addition, and would, accordingly, extend approximately 4 foot into the 10 foot side yard setback.

Mrs. Crouse stated that she and her husband have five children, and have lived in the house for about five years. The house has three bedrooms and two and one-half baths. The lot is approximately two-tenths of an acre in size.

Mrs. Crouse stated that her house and property were similar to others in the neighborhood, although the lot is smaller and of an unusual configuration and their house has no basement. The lot is, in general, level and flat. Mrs. Crouse stated that she and her husband could not locate a garage anywhere else on their property and their community regulations do not allow for a detached garage.

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The garage could not be placed on the other side of the home because there is only approximately 12 feet existing open space between the wall of their house and their neighbor's fence. This is not sufficient space for a garage, even if a 100% variance were granted.

Furthermore, the Applicants would be required to install a new driveway if the garage were placed to the right of the house. An existing driveway now adjoins the location of the proposed garage.

Mrs. Crouse testified that there are other single and double garages within their subdivision and the subject property is smaller than most.

No neighbors expressed any opposition to the proposal, and Mrs. Crouse believes the community association would grant permission to construct the garage. The roof line of the proposed garage would match that of the existing home; the shingles and exterior treatment would match the existing house.

Mrs. Crouse does not believe that the proposed garage would have an adverse impact on the neighborhood.

Next testified David Faby, who resides at 3702 Denton Court, Abingdon, Maryland, and who is the next door neighbor of the Applicants. Mr. Faby believes that the Applicants' house was originally planned for an attached garage, given the location of the existing driveway. He does not feel that the garage would have any negative impact on the neighborhood. Mr. Faby has no objection to the proposed variance.

Next for the Department of Planning and Zoning testified Anthony McClune. Mr. McClune is of the opinion that the property is unique. It has a very unusual configuration. The subject property fronts on a cul-de-sac, but the lot is not perpendicular to the cul-de-sac. Because of the angle at which the lot joins the cul-de-sac, the lot is somewhat "pinched", with the lot lines being angled. This creates a situation which further reduces the available area for the garage. All other houses on the cul-de-sac have garages. Mr. McClune believes there would be no adverse impact to the neighborhood if the variance were granted.

Mr. McClune also stated that the garage, if built, would be directly opposite the garage on the adjoining property and would not impact the living space of the adjoining neighbor.

No testimony or evidence was presented in opposition.

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APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants’ property, was originally, apparently, designed for the construction of a garage in the proposed location (see Attachment 9 to the Staff Report). However, the lot is uniquely configured, being smaller than other lots in its area, and is also set at an angle to Denton Court. These factors create a situation which do not allow the Applicants to construct a garage similar to those of their other neighbors without the requested variance.

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The uncontradicted testimony and information contained within the file, particularly the photographs attached to the Staff Report (Attachment 9), clearly support a finding that the subject property is unique. Its configuration is smaller than most of neighboring properties, its lot lines with relation to Denton Court are angled, not perpendicular, and the location of the house on the lot further create a unique set of circumstances which, without the variance, would constitute a practical difficulty.

The resulting practical difficulty, which is the Applicant's inability to construct a garage similar to others in the area, can be alleviated by the requested variance, which is the minimum relief necessary.

The variance, if granted, would have no adverse impact on any adjoining property or neighbor.

CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the following conditions:

1. The Applicants shall obtain all necessary permits and inspections for the garage.
2. The garage will not be converted to living area.
3. The garage will not be used in furtherance of a business.
4. The garage shall not be used for the storage of construction equipment or commercial vehicles.

Date: December 3, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner